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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5882 of 2004
Date of decision: 18.10.2007

Fauja Singh ...Petitioner

Versus

State Bank of India ...Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: None for the petitioner.

Mr. A. K. Khunger, Advocate for respondent

RAJESH BINDAL, J.

The challenge in the present petition is to the order passed by learned Additional District Judge, Fast Track Court, Ferozepur dated July 30, 2003 whereby application filed by the petitioner under Section 5 of the Limitation Act for condonation of delay in filing the appeal was dismissed.

The present proceeding arises out of a suit filed by the respondent bank for recovery of Rs. 36,125/- against the petitioner on account of principal, interest and other incidental charges calculated upto February 24, 2000 with future interest. The suit was decreed vide judgment dated November 8, 2000 passed by learned Civil Judge (Junior Division), Fazilka for the amount claimed in the suit alongwith future interest at the rate of 14% per annum. The petitioner filed appeal against the judgment and decree of the trail Court. Since, it was delayed, an application for condonation of delay was also filed alongwith the appeal. In the application allegations were levelled against the counsel engaged by the petitioner in the trial Court, against the respondent bank and also the Judicial Officer, who decided the case. It was stated that counsel for the respondent bank prevailed upon the counsel for the petitioner, as a result of which his complete evidence was not recorded. Further it was stated that the learned Presiding Officer of the trial Court was approached by the respondent bank for decision of the case in its favour.

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In reply filed to the application, the respondent bank denied the averments made by the petitioner in the application. On consideration of the matter, learned Additional District Judge, Fast Track Court, Ferozepur dismissed the application while considering the matter in detail and also finding the reasons given by the petitioner for condonation of delay, which were patently false levelling baseless allegations not only against the counsels representing the parties but also against the Presiding Officer to be insufficient. It was further found by learned Court below that on November 8, 2000 when the judgment and decree was passed by the trial Court against the petitioner, the petitioner had stepped into the witness box as DW1 and his complete statement was recorded. After his complete statement, his separate statement in Punjabi script was also recorded by learned trial Court closing his evidence. In such a situation, the petitioner could not raise a plea that he was misled by his counsel by not informing him about the disposal of the suit and giving him next date as December 15, 2000 for recording of his remaining evidence. It was further opined that application was nothing else but scandalising the whole process of law, which is an effort to delay the execution of the money decree passed in favour of the respondent bank.

Here is a litigant, who is out to level baseless and wild allegations against every one connected with the decision of the case starting from his own counsel, counsel for the respondent bank and also the Presiding Officer of the Court. The petitioner had not approached the Court with clean hands. Entire material on record having been been considered in detail by learned Court below, I do not find any illegality has been committed by learned Court below in rejecting the application for condonation of delay in filing the appeal by finding the reasons therefor to be insufficient.

Accordingly, the present petition is dismissed.

October 18, 2007 **(Rajesh Bindal)**
Pka **Judge**